BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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In the Matter of the Accusation Against:

MICHELLE ELAINE CHANIN a.k.a. MICHELLE ELAINE GIUBBINI P O Box 1125 Frederick, CO 80530

Registered Nurse License No. 497255

RESPONDENT

Case No. 2013-96

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

- 1. On or about August 8, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2013-96 against Michelle Elaine Chanin, aka Michelle Elaine Giubbini (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)
- On or about December 31, 1993, the Board of Registered Nursing (Board) issued Registered Nurse License No. 497255 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on April 30, 2009 and has not been renewed.
- 3. On or about August 8, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2013-96, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

P O Box 1125

Frederick, CO 80530.

- 4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.
- 5. On or about August 17, 2012 and August 20, 2012, the First Class Mail documents and the Certified Mail documents were returned both marked by the U.S. Postal Service, "Attempted Not Known". The address on the documents was the same as the address on file with the Board. Respondent failed to maintain an updated address with the Board and the Board has made attempts to serve the Respondent at the address on file. Respondent has not made herself available for service and therefore, has not availed herself of her right to file a notice of defense and appear at hearing.
 - 6. Business and Professions Code section 2764 states:

The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.

- 7. Government Code section 11506 states, in pertinent part:
- (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.
- 8. Respondent failed to file a Notice of Defense within 15 days after service of the Accusation upon her, and therefore waived her right to a hearing on the merits of Accusation No. 2013-96.
 - 9. California Government Code section 11520 states, in pertinent part:
- (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

DETERMINATION OF ISSUES

- 1. Based on the foregoing findings of fact, Respondent Michelle Elaine Chanin, aka Michelle Elaine Giubbini has subjected her following license(s) to discipline:
 - a. Registered Nurse License No. 497255
 - 2. The agency has jurisdiction to adjudicate this case by default.
- 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s) based upon the following violations alleged in the Accusation, which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.
 - a. Violation of Business and Professions Code section 2761(a)(4) Disciplinary action by another State Board of Nursing.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 497255, heretofore issued to Respondent Michelle Elaine Chanin, aka Michelle Elaine Giubbini is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on fanuar

It is so ORDERED

ary 14, 2013

Duember 14, 2812

Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2013-96

Accusation No. 2013-96

	 			
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3	Supervising Deputy Attorney General LESLIE E. BRAST			
. 4	Deputy Attorney General State Bar No. 203296			
5	455 Golden Gate Avenue, Suite 11000	•		
6	Telephone: (415) 703-5548			
7	Attorneys for Complainant			
8	LYDIA ZANE, Senior Legal Analyst			
	Facsimile: (415) 703-5480			
9				
10	BEFORE THE BOARD OF REGISTERED NURSING			•
11	11	ER AFFAIRS		
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14	In the Matter of the Accusation Against: Case No	2013-	76	
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16	11	JSATION		
17	Frederick, CO 80530			
18	Registered Nurse License No. 497255			
19	Respondent.			•
20	Complainant alleges:			
21	<u>PARTIES</u>			
22	1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her			
23	official capacity as the Executive Officer of the Board of Registered Nursing, Department of			
24	Consumer Affairs.			
25	2. On or about December 31, 1993, the Board of Registered Nursing issued Registered			gistered
26	Nurse License Number 497255 to Michelle Elaine Chanin, a.k.a. Michelle Elaine Giubbini,			ini,
27	(Respondent). The Registered Nurse License expired on April 30, 2009, and has not been			en
28	renewed.			
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JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

- 6. Section 2761 of the Code states: "the board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:
 - "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Out of State Discipline) (Bus. & Prof. Section 2761, subd. (a)(4))

- 8. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), in that on or about January 11, 2010, in a disciplinary matter before the State of Florida Board of Nursing (Florida Board) entitled *Department of Health vs. Michelle Elaine Chanin*, Case No. 2008-21919, License No. RN 9215628, the Florida Board entered a Final Order adopting a settlement agreement thereby suspending Respondent's license to practice professional nursing in the State of Florida.
- 9. The circumstances underlying the Florida Board's Final Order are that on or about April 13, 2009, the State of Florida Department of Health filed Administrative Complaint No. 2008-21919 against Respondent alleging that Respondent was unable to practice nursing with reasonable skill and safety due to mental health instability and refusal to continue treatment.

OTHER MATTERS

10. On or about June 9, 2003, in a disciplinary matter before the Nevada State Board of Nursing (Nevada Board) entitled *In the Matter of Michelle Elaine Chanin, Registered Nurse License No. 35050*, Case No.1125-02C, the Nevada Board made Findings of Fact and Conclusions of Law and thereon an issued an Order accepting a settlement agreement for reprimand concerning Respondent's professional nursing license in the State of Nevada.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 497255, issued to Michelle Elaine Chanin, a.k.a. Michelle Elaine Giubbini (Respondent);
- 2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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1	3. Taking such other and further action as deemed necessary and proper.
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2 3	DATED: August 8,2012 Home Fam
	LOUISE R. BAILEY, M.ED., RN Executive Officer
4	Board of Registered Nursing
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Accusation

1	3. Taking such other and further action as deemed necessary and proper.
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3	DATED: August 8 2012 Haw Jam
4	Executive Officer
5	Board of Registered Nursing Department of Consumer Affairs State of California
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